

Message Text

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PAGE 01 STATE 051989

64

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FM SECSTATE WASHDC

TO AMEMBASSY DAMASCUS

C O N F I D E N T I A L STATE 051989

E.O. 11652: GDS

TAGS: CASC

SUBJECT:ACCESS TO AMERICAN PRISONERS

REF: STATE 47890

1. EMBASSY'S PROBLEMS IN OBTAINING ACCESS TO AMERICANS IM-
PRISONED IN SYRIA AWAITING CHARGES AND TRIAL (MOST RECENTLY
GREENEY AND CROSS, REFTEL) INDICATE THAT FOREIGN MINISTRY
MAY BE HAVING TROUBLE CONVINCING THE SECURITY AND JUSTICE
BUREAUS OF SARG OBLIGATION UNDER INTERNATIONAL LAW TO ACCORD
CONSULAR OFFICERS INTERVIEWS WITH DETAINED U.S. CITIZENS.
MFA'S LEVERAGE WITH SARG BUREAUCRACY ON THIS ISSUE MIGHT BE
STRENGTHENED IF SARG WERE TO BECOME PARTY TO THE VIENNA
CONVENTION ON CONSULAR RELATIONS.

2. ARTICLE 36 OF THE VIENNA CONVENTION PROVIDES IN RELEVANT
PART:

SEC. (1) (B) IF HE SO REQUESTS, THE COMPETENT AUTHORITIES OF
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PAGE 02 STATE 051989

THE RECEIVING STATE SHALL, WITHOUT DELAY, INFORM THE CON-

SULAR POST OF THE SENDING STATE IF, WITHIN ITS CONSULAR DISTRICT, A NATIONAL OF THAT STATE IS ARRESTED OR COMMITTED TO PRISON OR TO CUSTODY PENDING TRIAL OR IS DETAINED IN ANY OTHER MANNER. ANY COMMUNICATION ADDRESSED TO THE CONSULAR POST BY THE PERSON ARRESTED, IN PRISON, CUSTODY OR

DETENTION SHALL ALSO BE FORWARDED BY THE SAID AUTHORITIES WITHOUT DELAY. THE SAID AUTHORITIES SHALL INFORM THE PERSON CONCERNED WITHOUT DELAY OF HIS RIGHTS UNDER THIS SUB-PARAGRAPH;

(C) CONSULAR OFFICERS SHALL HAVE THE RIGHT TO VISIT A NATIONAL OF THE SENDING STATE WHO IS IN PRISON, CUSTODY OR DETENTION, TO CONVERSE AND CORRESPOND WITH HIM AND TO ARRANGE FOR HIS LEGAL REPRESENTATION. THEY SHALL ALSO HAVE THE RIGHT TO VISIT ANY NATIONAL OF THE SENDING STATE WHO IS IN PRISON, CUSTODY OR DETENTION IN THEIR DISTRICT IN PURSUANCE OF A JUDGMENT. NEVERTHELESS, CONSULAR OFFICERS SHALL REFRAIN FROM TAKING ACTION ON BEHALF OF A NATIONAL WHO IS IN PRISON, CUSTODY OR DETENTION IF HE EXPRESSLY OPPOSES SUCH ACTION.

SEC. (2) THE RIGHTS REFERRED TO IN PARAGRAPH 1 OF THIS ARTICLE SHALL BE EXERCISED IN CONFORMITY WITH THE LAWS AND REGULATIONS OF THE RECEIVING STATE, SUBJECT TO THE PRO-VISO, HOWEVER, THAT THE SAID LAWS AND REGULATIONS MUST ENABLE FULL EFFECT TO BE GIVEN TO THE PURPOSES FOR WHICH THE RIGHTS ACCORDED UNDER THIS ARTICLE ARE INTENDED.

3. WE HAVE SUGGESTED TO OTHER GOVERNMENTS WITH WHICH WE HAVE HAD DIFFICULTIES OVER SECURING CONSULAR ACCESS THAT THEIR ADOPTION OF THE VIENNA CONSULAR CONVENTION WOULD BE IN THE INTERESTS BOTH OF THEM AND OF OURSELVES.

4. IF YOU THINK USEFUL, YOU MAY SUGGEST TO FOREIGN MINISTRY DESIRABILITY OF SARG'S ACCEDING TO VIENNA CONVENTION, POINTING OUT THAT 69 STATES ARE NOW PARTY TO IT, INCLUDING USG AND, IN ARAB WORLD, EGYPT, ALGERIA, IRAQ, JORDAN, OMAN, SOMALIA AND TUNISIA. INGERSOLL

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